This License Agreement (this "Agreement") is made effective upon signing (the "Effective Date") between the Music Library Association ("Licensor") and University of California, San Diego ("Licensee").

In consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Content of Licensed Materials; Grant of License
The materials that are the subject of this Agreement shall consist of the digital form of the Music Cataloging Bulletin (hereinafter referred to as the 'Licensed Materials').

Licensee and its Authorized Users acknowledge that the copyright and title to the Licensed Materials and any trademarks or service marks relating thereto remain with Licensor and/or its suppliers. Neither Licensee nor its Authorized Users shall have right, title or interest in the Licensed Materials except as expressly set forth in this Agreement.

Licensor hereby grants to Licensee non-exclusive use of the Licensed Materials and the right to provide the Licensed Materials to Authorized Users in accordance with this Agreement.

H. Delivery/Access of Licensed Materials to Licensee
Licensor will provide the Licensed Materials to the Licensee in the following manner:

Network Access. The Licensed Materials will be stored at a single Licensor location in digital form accessible by telecommunications links between such location and authorized networks of Licensee.

III. Fees
Licensee shall make payment to Licensor for access to the Licensed Materials pursuant to the terms set forth in the enclosed renewal form.

IV. Authorized Use of Licensed Materials
Authorized Users. "Authorized Users" are:
Persons Affiliated with Licensee. Full and part time students and employees (including faculty, staff, affiliated researchers and independent contractors) of Licensee and the institution of which it is a part, regardless of the physical location of such persons.

Walk-ins. Patrons not affiliated with Licensee who are physically present at Licensee's site(s) ("walk-ins").

Authorized Uses. Licensee and Authorized Users may make all use of the Licensed Materials as is consistent with the Fair Use Provisions of United States and international law. Nothing in this Agreement is intended to limit in any way whatsoever Licensee's or any Authorized User's rights under the Fair Use provisions of United States or international law to use the Licensed Materials.

The Licensed Materials may be used for purposes of research, education or other non-commercial use as follows:

Display. Licensee and Authorized Users shall have the right to electronically display the Licensed Materials.

Digitally Copy. Licensee and Authorized Users may download and digitally copy a reasonable portion of the Licensed Materials.

Print Copy. Licensee and Authorized Users may print a reasonable portion of the Licensed Materials.

Archival/Backup Copy. Upon request of Licensee, Licensee may create one (1) copy of the entire set of Licensed Materials to be maintained as a backup or archival copy during the term of this Agreement or as required to exercise Licensee's rights under Section XI, "Perpetual License", of this Agreement.

Course Packs. Licensee and Authorized Users may use a reasonable portion of the Licensed Materials in the preparation of Course Packs or other educational materials.

Electronic Reserve. Licensee and Authorized Users may use a reasonable portion of the Licensed Materials for use in connection with specific courses of instruction offered by Licensee and/or its parent institution.

Databases. If the Licensed Materials are a database, compilation, or collection of information, Authorized Users shall be permitted to extract or use information contained in the database for educational, scientific, or research purposes, including extraction and manipulation of information for the purpose of illustration, explanation, example, comment, criticism, teaching, research, or analysis.

Electronic Links. Licensee may provide electronic links to the Licensed Materials from Licensee's web page(s), and is encouraged to do so in ways that will increase the usefulness of the Licensed Materials to Authorized Users. Licensee may make changes in the appearance of such links and/or in statements accompanying such links as reasonably requested by Licensor.
Caching. Licensee and Authorized Users may make such local digital copies of the Licensed Materials as are necessary to ensure efficient use by Authorized Users by appropriate browser or other software.

Scholarly Sharing. Authorized Users may transmit to a third party colleague in hard copy or electronically, minimal, insubstantial amounts of the Licensed Materials for personal use or scholarly, educational, or scientific research or professional use but in no case for re-sale. In addition, Authorized Users have the right to use, with appropriate credit, figures, tables and brief excerpts from the Licensed Materials in the Authorized Users own scientific, scholarly and educational works.

Loan. Licensee may fulfill requests from other institutions, a practice commonly called Interlibrary Loan. Licensee agrees to fulfill such requests in compliance with Section 108 of the United States Copyright Law (17 USC 108, "Limitations on Interlibrary exclusive rights: Reproduction by libraries and archives") and clause 3 of the Guidelines for the Proviso of Subsection 108(g)(2) prepared by the National Commission on New Technological Uses of Copyrighted Works.

V. Access by and Authentication of Authorized Users Licensee and its Authorized Users shall be granted access to the Licensed Materials pursuant to one of the two following:

IP Addresses. Authorized Users shall be identified and authenticated by the use of Internet Protocol ("IP") addresses provided by Licensee to Licensor.

Or

Passwords. Authorized Users shall be identified and authenticated by the use of a username and password assigned by Licensor.

VI. Specific Restrictions on Use of Licensed Materials Unauthorized Use. Except as specifically provided elsewhere in this agreement, Licensee shall not knowingly permit anyone other than Authorized Users to use the Licensed Materials.

Modification of Licensed Materials. Licensee shall not modify or create a derivative work of the Licensed Materials without the prior written permission of Licensor.

Removal of Copyright Notice. Licensee may not remove, obscure or modify any copyright or other notices included in the Licensed Materials.

Commercial Purposes. Other than as specifically permitted in this Agreement, Licensee may not use the Licensed Materials for commercial purposes, including but not limited to the sale of the Licensed Materials or bulk reproduction or distribution of the Licensed Materials in any form.

VII. Licensor Performance Obligations Quality of Service. Licensor shall use reasonable efforts to ensure that the Licensor's server or servers have sufficient capacity and rate of connectivity to provide the Licensee and its Authorized Users with a quality of service comparable to current standards in the on-line information provision industry in the Licensee's locale.

VIII. Licensee Performance Obligations Provision of Notice of License Terms to Authorized Users. Licensee shall make reasonable efforts to provide Authorized Users with appropriate notice of the terms and conditions under which access to the Licensed Materials is granted under this Agreement including, in particular, any limitations on access or use of the Licensed Materials as set forth in this Agreement.

Protection from Unauthorized Use. Licensee shall use reasonable efforts to inform Authorized Users of the restrictions on use of the Licensed Materials. In the event of any unauthorized use of the Licensed Materials by an Authorized User, (a) Licensor may terminate such Authorized User's access to the Licensed Materials, (b) Licensor may terminate the access of the Internet Protocol ("IP") address(es) from which such unauthorized use occurred, and/or (c) Licensee may terminate such Authorized User's access to the Licensed Materials upon Licensor's request. Licensor shall take none of the steps described in this paragraph without first providing reasonable notice to Licensee and cooperating with the Licensee to avoid recurrence of any unauthorized use.

Maintaining Confidentiality of Access Passwords. Licensee shall maintain the confidentiality of any institutional passwords provided by Licensor.

IX. Term This Agreement shall continue in effect until December 31, 2004, commencing on the Effective Date.

X. Renewal This Agreement shall be renewable at the end of the current term for a successive one-year term unless either party gives written notice of its intention not to renew thirty days before expiration of the current term.

XI. Perpetual License Except for termination for cause, Licensor hereby grants to Licensee a nonexclusive, royalty-free, perpetual license to use any Licensed Materials that were accessible during the term of this Agreement. Such use shall be in accordance with the provisions of
this Agreement, which provisions shall survive any termination of this Agreement. The means by which Licensee shall have access to such Licensed Materials shall be through a printed copy created by the Licensee itself.

XII. Warranties
Subject to the Limitations set forth elsewhere in this Agreement:
Licensor warrants that it has the right to license the rights granted under this Agreement to use Licensed Materials, that it has obtained any and all necessary permissions from third parties to license the Licensed Materials, and that use of the Licensed Materials by Authorized Users in accordance with the terms of this Agreement shall not infringe the copyright of any third party. The Licensor shall indemnify and hold Licensee and Authorized Users harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney’s fees, which arise from any claim by any third party of an alleged infringement of copyright or any other property right arising out of the use of the Licensed Materials by the Licensee or any Authorized User in accordance with the terms of this Agreement. This indemnity shall survive the termination of this agreement. No limitation of liability set forth elsewhere in this agreement is applicable to this indemnification.

XIII. Limitations on Warranties
Notwithstanding anything else in this Agreement:
Neither party shall be liable for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of data, business interruption, or loss of profits, arising out of the use of or the inability to use the Licensed Materials. Licensor makes no representation or warranty, and expressly disclaims any liability with respect to the content of any Licensed Materials, including but not limited to errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or the disclosure of confidential information.

Except for the express warranties stated herein, the Licensed Materials are provided on an “as is” basis, and Licensor disclaims any and all other warranties, conditions, or representations (express, implied, oral or written), relating to the Licensed Materials or any part thereof, including, without limitation, any and all implied warranties of quality, performance, merchantability or fitness for a particular purpose. Licensor makes no warranties respecting any harm that may be caused by the transmission of a computer virus, worm, time bomb, logic bomb or other such computer program. Licensor further expressly disclaims any warranty or representation to Authorized Users, or to any third party.

XIV. Dispute Resolution
In the event any dispute or controversy arising out of or relating to this Agreement, the parties agree to exercise their best efforts to resolve the dispute as soon as possible. The parties shall, without delay, continue to perform their respective obligations under this Agreement which are not affected by the dispute.

XV. Force Majeure
Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective, duly authorized representatives as of the dates written below.

LICENSOR:

BY: [text deleted]

Signature of Authorized Signatory of Publisher
Print Name: Nancy B. Nuzzo
Title: Treasurer/Executive Secretary
Affiliation: [text deleted]

LICENSEE:

BY: [text deleted] DATE:

Signature of Authorized Signatory of Licensee

Print Name: Head, Acquisitions

Please sign and return this License Agreement. Retain a copy for your records.